

# **Exhibit 5**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ESTATE OF ESTHER KLIEMAN, et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) Civil Action  
 ) No. 04-1173 (PLF/JMF)  
THE PALESTINIAN AUTHORITY; )  
et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

30(b)(6) DEPOSITION OF AFIF SAFIEH  
JERUSALEM, ISRAEL  
FEBRUARY 10, 2011

REPORTED BY: BRENDA MATZOV, CA CSR NO. 9243

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1 Q. And on what date did the PLO create the  
2 Palestinian National Authority?

3 A. You know that the negotiations in Oslo, the  
4 back channel, were from the beginning of '93 until  
5 August of '93. And that agreement, on the interim  
6 period, was signed on the White House lawn on the  
7 13th of September, '93. And a couple of months later,  
8 Yasser Arafat had it endorsed by the Executive Committee  
9 of the PLO. And Mr. Zanoun convened a session of the  
10 Central Council to endorse that agreement that was  
11 signed and to give its green light for the creation  
12 of it.

13 But once that was decided, the PA, or PNA,  
14 starts to have its own autonomous existence with its  
15 own institutions. And if you remember, it all started  
16 with the Gaza-Jericho agreement. And the Israelis  
17 withdrew out of the urban centers of the West Bank in  
18 December '95, allowing the presidential elections of  
19 early '96.

20 But, by the way, these decisions were not easy  
21 to take. There was a lot of persuasion needed. But  
22 they were moments of hope. We would always say that  
23 history now is in the making. And we were unreasonably  
24 reasonable to give hope a chance.

25 Q. At the time the PLO created the Palestinian

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1 National Authority in 1993, did the PLO cause the  
2 Palestinian National Authority to become separately  
3 incorporated?

4 A. Again, I --

5 MR. HIBEY: I'm going to object to the use of  
6 the word "incorporated."

7 THE WITNESS: I'm not comfortable, and I don't  
8 know what you mean by "separately incorporated."

9 MR. HIBEY: Calls for a legal conclusion.

10 THE WITNESS: The Palestinian National  
11 Authority is a result of a bilateral agreement,  
12 with the world as our witness, between the government  
13 of Israel and the PLO, negotiating on behalf of  
14 the totality of the Palestinian people to create a  
15 self-governing body in the territories occupied in '67,  
16 which are the West Bank, including East Jerusalem, and  
17 Gaza. And the organs that emanated would be organs  
18 that represent that constituency.

19 Q. BY MR. HEIDEMAN: Thank you.

20 A. So it's a new dynamic for a totally separate  
21 structure. But the green light for its birth was  
22 given by the PLO, who had negotiated on behalf of the  
23 Palestinian people. Yes.

24 Q. Thank you.

25 At the time of the elections in 1996, was

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1 Fatah the dominant party?

2 A. Now you're taking too much on the word  
3 "dominant." In 1996, yes. And it was so comfortable  
4 in Palestinian public opinion that there were certain  
5 factions that were not on the official list of Fatah,  
6 but who wanted to run for the legislative elections,  
7 who ran as independents against the official list.  
8 And a few of them won in those elections against the  
9 officials.

10 So it was comfortable, and we were speaking  
11 still at the moment of political hope. That election  
12 occurred two months after the Israeli withdrawal out of  
13 the urban centers. I remember, from London, I had sent  
14 to Bethlehem 12 bagpipes donated by the Lord Provost,  
15 Lord Mayor of Glasgow. And I remember the student --  
16 the scout movement playing -- and it's an instrument  
17 I detest -- playing the bagpipes to celebrate the  
18 withdrawal out of the urban center of Bethlehem. And  
19 that was before it was caged --

20 Q. Thank you.

21 A. -- and all the urban centers of the West Bank.  
22 So there was a moment of hope.

23 And in Palestinian politics, always bear in  
24 mind there's the vehicles of hope and the vehicles of  
25 anger.

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1 Q. At the time of the 1998 session of the PNC,  
2 was Fatah the dominant party?

3 A. You make me regret having used the word  
4 "dominant party."

5 And as I told you, dominant party was a  
6 concept I used. I borrowed it from the political  
7 science lexicon, the continental European politics.  
8 But I use that word.

9 In '98, it was still a moment of hope. And I  
10 would still consider Fatah to have been in a comfortable  
11 situation. Especially each PNC session takes place in  
12 a particular moment, and the environment is important.

13 An American president was coming to attend  
14 our session. He was also there to inaugurate the first  
15 airport, the Gaza airport, that functioned slightly for  
16 a couple of months and was then bombed out of existence.

17 So it was a moment of hope. Then it was easy  
18 to ask people: We are re-amending what we have already  
19 done, amending the charter, and let's do it again.  
20 So people saw hope in the presence of Clinton and the  
21 opening of the airport, et cetera. The atmospherics  
22 were conducive for Fatah to be extremely comfortable.

23 A meeting today, when Palestinians would have  
24 just read in the paper that 12 dunams and a half have  
25 been confiscated here, at a walking distance from the

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1 goal of Palestinian statehood in the final status.  
 2 But on day-to-day management, et cetera, the  
 3 Palestinian cabinet is responsible and accountable to  
 4 the Palestinian Legislative Council and not to any  
 5 other.

6 Q. It's true, is it not, that the Palestinian  
 7 Authority remains responsible for the negotiations with  
 8 the State of Israel?

9 MR. HIBEY: Excuse me. He's not here as a  
 10 Palestinian Authority witness.

11 MR. HEIDEMAN: But he testified earlier that  
 12 the Palestine Liberation Organization was responsible  
 13 for the negotiations with the State of Israel.

14 MR. HIBEY: Yes.

15 MR. HEIDEMAN: And I'm trying --

16 MR. HIBEY: But you are putting a question to  
 17 him about the Palestinian Authority. He is not in the  
 18 chair for the Palestinian Authority.

19 MR. HEIDEMAN: I understand that.

20 Q. BY MR. HEIDEMAN: But I would like to  
 21 know, sir, on behalf of the Palestine Liberation  
 22 Organization, who is responsible for negotiations  
 23 with the State of Israel during the time period  
 24 after the creation of the Palestinian Authority?  
 25 Was it the PLO, or was it the PA?

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1 MR. HIBEY: Excuse me. I object to the  
 2 question because you have to be more precise about  
 3 the negotiations you're talking about. The witness  
 4 has made it very clear what negotiations fell in the  
 5 bailiwick of the PLO.

6 Q. BY MR. HEIDEMAN: The Palestinian security  
 7 forces that were established were under the command  
 8 of Chairman Arafat; isn't that correct?

9 A. He was the overall official commander of all  
 10 the security institutions. But each one of them had its  
 11 own existence. And from 2000 onwards, they had received  
 12 a serious blow that disrupted their normal functioning.

13 Because, unfortunately, in every Israeli  
 14 action against -- in response or in preemption of  
 15 Palestinian possible activity, it was the Palestinian  
 16 security forces that were targeted, ending in them  
 17 becoming totally incapacitated, meaning that their  
 18 headquarters, their branches, their offices, their  
 19 mobility, capabilities in cars, and whatever were  
 20 damaged and incapable of moving from one area to the  
 21 other.

22 Q. And before we break for lunch, it's true, is  
 23 it not, that the ultimate authority of the Palestinian  
 24 Authority is the Palestine Liberation Organization and  
 25 the Palestine -- Palestinian Authority is accountable

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1 to the Palestine Liberation Organization Executive  
 2 Committee?

3 Isn't that true?

4 A. There is a supremacy of the PLO in the  
 5 sense that the PLO is the body that encapsulates and  
 6 represents the totality of the Palestinian people. The  
 7 PA represents only a segment of those people that happen  
 8 to be in those territories designated as the West Bank  
 9 and Gaza.

10 So there is supremacy of the PLO on the PA,  
 11 if you want. But they are two distinct entities. The  
 12 PNA was created through a positive opinion of the PLO  
 13 organ. So it's the PLO that decided, after agreement  
 14 with the Israelis, to create the Palestinian National  
 15 Authority.

16 But once the Palestinian National Authority  
 17 was created, it has a distinct, separate, autonomous  
 18 existence with organs accountable one to the other,  
 19 such as the cabinet, the ministry to the Palestinian  
 20 Legislative Council and to the electorate in the final  
 21 analysis.

22 Q. But the Palestinian Authority was made  
 23 accountable to the PLO Executive Committee; isn't  
 24 that true?

25 MR. HIBEY: I'm going to object. That

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1 question has been asked and it has been answered.  
 2 And I don't think that you should be putting it to  
 3 him again.

4 Q. BY MR. HEIDEMAN: Notwithstanding the  
 5 objection, please answer the question.

6 It's true, is it not, the Palestinian  
 7 Authority was made accountable to the PLO Executive  
 8 Committee?

9 MR. HIBEY: I am going to object. It's been  
 10 asked and answered.

11 THE WITNESS: I think I will take the advice  
 12 of my counsel.

13 Q. BY MR. HEIDEMAN: Please answer the  
 14 question.

15 MR. HIBEY: Don't answer the question.

16 Q. BY MR. HEIDEMAN: It's true, it is not,  
 17 that --

18 MR. HIBEY: Don't answer the question.

19 MR. HEIDEMAN: Certify that to the Court,  
 20 please.

21 Q. BY MR. HEIDEMAN: It's true, is it not,  
 22 that the Palestinian Authority remains responsible  
 23 for the negotiations with the State of Israel as  
 24 of --

25 MR. HIBEY: Regarding what?